

FILED

SEP 30 2015

U.S. DISTRICT COURT-WVND
CLARKSBURG, WV 26301

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

TYQUAY CHARLES WILLIAMS, pro se,

Plaintiff,

v.

// CIVIL ACTION NO. 1:14CV60
CRIMINAL ACTION NO. 1:12CR96-1
(Judge Keeley)

UNITED STATES OF AMERICA,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION (DKT. NO. 7)

The pro se plaintiff, Tyquay Charles Williams ("Williams"), has filed a motion pursuant to 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence based on ineffective assistance of counsel, alleging, inter alia, that his attorney failed to file an appeal on his behalf after being asked to do so, and after promising to do so. The Honorable John S. Kaull, United States Magistrate Judge, entered a report and recommendation ("R&R"), recommended that an Amended Judgment and Commitment Order be entered allowing Williams to file a timely appeal, and that his § 2255 petition be denied as moot. On August 17, 2015, the government filed its response to the R&R, stating that it has no objections. Nor has Williams objected to the R&R. See Wright v. Collins, 766 F.2d 841, 845 (4th Cir. 1985) ("[A] party who fails to object to a magistrate's report is barred from appealing the judgment of a district court adopting the magistrate's findings.").

ORDER ADOPTING REPORT AND RECOMMENDATION

There being no objections, the Court **ADOPTS** the R&R, **DENIES as MOOT** Williams's § 2255 motion (dkt. no. 1), and **DENIES as MOOT** petitioner's Motion for Pre-Filing Discovery (dkt. no. 38). This same date the Court has entered an Amended Judgment and Commitment Order in order to allow Williams to file a timely notice of appeal.

It is so **ORDERED**.

The Court directs the Clerk to transmit copies of this Order to counsel of record and to the pro se plaintiff, certified mail, return receipt requested.

DATED: September 30, 2015.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE